

1 NICHOLAS ULRICH, WSBA No. 50006
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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF WASHINGTON**

10 ANTONIA TOMBARI, an
11 individual, and TROY
12 BRUNER, an individual,

13 Plaintiffs,

14 v.

15 STATE OF WASHINGTON,
16 by and through the
17 WASHINGTON STATE
18 DEPARTMENT OF
19 CORRECTIONS, a Washington
20 State Agency; CATI
21 HARRIS, an individual; JIM
22 RILEY, an individual; MEGAN
SMITH, an individual; RENEE
SCHUITMAN, an individual;
and KIRSTOPHER SMITH,
and individual,

Defendants

SUPERIOR COURT NO.
20-2-02253-32

NOTICE OF REMOVAL TO
FEDERAL COURT

TO: THE CLERK OF THE ABOVE ENTITLED COURT;

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NOTICE OF REMOVAL TO
FEDERAL COURT

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ATTORNEY GENERAL OF WASHINGTON
West 1116 Riverside Avenue
Spokane, WA 99201-1194
(509) 456-3123

1 TO: Antonia Tombari and Troy Bruner, Plaintiffs, Plaintiff, and;

2 TO: Michael A. Maurer, Charles Hausberg, and Court A Hall, Plaintiff's

3 Attorneys

4 PLEASE TAKE NOTICE that Defendants DEPARTMENT OF
5 CORRECTIONS, CATHI HARRIS, JIM RILEY, MEGAN SMITH, RENEE
6 SCHUITEMAN, and KIRSTOPHER SMITH hereby give notice of the removal of
7 the above-captioned action, Washington State Superior Court For Spokane County
8 Case No: 20-2-02253-32 to the United States District Court for the Eastern District
9 of Washington, on the grounds set forth herein. This notice and petition for removal
10 is made pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1332, 28 U.S.C. § 1343, 28
11 U.S.C. § 1367, 28 U.S.C. § 1441, and 28 U.S.C. § 1446, and is proper and
12 appropriate based on the following:

13 1. The suit was filed on August 24, 2020. The Department of
14 Corrections was served on or after August, 19, 2020. However, individual
15 defendant Megan Smith was not served until August 30, 2020. Thus, under 28
16 U.S.C. § 1446(b) and *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S.
17 344, 347–48 (1999), this Notice of Removal is timely filed with this Court.

18 2. Pursuant to 28 U.S.C. § 1446(a), copies of “all process, pleadings,
19 and orders served upon” the Defendant have been attached hereto.

20 3. Included in the causes of action alleged by the Plaintiff, is a claim
21 pursuant to 42 U.S.C. § 1983. Thus, this suit raises a federal question on the face
22 of the complaint. The court has jurisdiction pursuant to 28 U.S.C. § 1331 and 28

1 U.S.C. § 1367.

2 4. Defendant, Department of Corrections, and all five individually
3 named defendants voluntarily appear in this action for the purposes of removal
4 (See Declaration of Nicholas Ulrich), but reserve all objections, arguments, and
5 defenses to Plaintiff's Complaint. Thus, this Notice of Removal is filed subject
6 to and with reservation of rights by Defendant including, but not limited to,
7 defenses and objections to venue, improper service of process, personal
8 jurisdiction and any other defenses Defendant may pursue. Any responsive
9 pleading or motion necessary to address these issues will be filed forthwith.

10 5. A copy of this Notice will be filed with the Clerk of the Superior
11 Court of the State of Washington for the County of Spokane, and a copy of this
12 Notice will be served on Plaintiffs.

13 6. All Defendants, by and through the undersigned attorney, hereby
14 consent to removal of this matter to the United States District Court for the
15 Eastern District of Washington at Spokane, in compliance with 28 U.S.C. §
16 1446. *See* Declaration of Nicholas Ulrich.

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1 Wherefore, Defendants respectfully request that the above-referenced
2 matter now pending in Washington State Superior Court for Spokane County be
3 removed to the United States District Court for the Eastern District of
4 Washington at Spokane.

5 DATED this 18 day of September, 2020.

6 ROBERT W. FERGUSON
7 Attorney General

8  2/7/16-1

9  for NICHOLAS R. ULRICH, WSBA No.
50006

10 OID # 91106

11 Assistant Attorney General

12 Attorneys for Defendant

13 1116 W. Riverside, Suite 100

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PROOF OF SERVICE

I certify that I electronically filed and served a copy of this document using the CM/EDCF filing system and sent a copy of such filing in the U. S. mail to the following:

☒ US Mail Postage Prepaid

Michael Maurer
Charles Hausberg
Court A. Hall
LUKINS & ANNIS, PS
717 West Sprague Avenue, Suite 1600
Spokane, WA 99201-0466
(509) 623-2021
(509) 747-2323 FAX Spokane, WA 99201

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 18th day of September, 2020, at Spokane, Washington.


ELIZABETH KIRWIN